

Also of Note

District was not liable for teacher's sexual abuse of student.

B.E.J., an elementary school student at Grapeland ISD, was sexually abused by his teacher, Melissa Singer. Singer gave B.E.J. special treatment as his homeroom and math teacher, including allowing him to eat lunch in her classroom. She began sexually abusing him during the summer between his fifth and sixth grade years, when B.E.J. was close friends with her son, and the abuse continued the following school year. Grapeland ISD employees noticed Singer's special treatment of B.E.J. For example, one employee testified that she had seen Singer set up a table with a tablecloth for B.E.J. on Valentine's Day and had brought flowers for him to give to her. The employee thought this behavior was "weird" and reported it to the principal, however she did not think that anything sexual was going on until Singer was arrested. The principal received reports from two employees about favoritism, but she believed that the special treatment was based on B.E.J.'s friendship with Singer's son and Singer's friendship with B.E.J.'s mother. The principal did not open a sexual harassment investigation, but she did report the behavior to the district's superintendent.

When B.E.J. entered sixth grade, he reported Singer's abuse to his mother and the sheriff's office, and Singer was arrested. B.E.J. and his mother sued Grapeland ISD under Title IX of the Education Amendments of 1972, alleging that the district acted with deliberate indifference towards its employee's grooming and sexual abuse. They also alleged that the district was negligent in preventing the abuse. The district moved for summary judgment.

Under Title IX, a school district cannot be held liable for a teacher's sexual harassment of a student unless an official with authority to address the alleged harassment had *actual* knowledge of the behavior. Therefore, B.E.J. needed to show that the principal, as Singer's supervisor, actually knew of a substantial risk that sexual abuse would occur based on the reports of favoritism by other employees. Citing previous Title IX cases, the court noted: "Any contact between an adult and a child could be grooming behavior, but that does not mean that all contact is sexual harassment under Title IX." As such, the court characterized the relevant inquiry as looking for evidence that the principal or superintendent "actually knew of the sexual abuse or of a substantial risk of sexual abuse."

Prior to Singer's arrest, no one reported or articulated a concern to school officials that Singer was sexually abusing B.E.J. Although she showed him favoritism, and he spent a great deal of time at her house, the court noted that both of these "red flags" could be explained by the fact that B.E.J. and Singer's son were close friends. As for the Valentine's Day incident, the court granted that this was "at a minimum, weird." Nonetheless, the incident did not inspire any employee to report a concern of sexual harassment as required for Title IX liability.

Because the evidence did not support a finding that the school district had actual knowledge of the abuse, and the district was protected by immunity from negligence claims, the court granted Grapeland ISD's motion for summary judgment. *Reagans ex rel. B.E.J. v. Grapeland Indep. Sch. Dist.*, CIVIL ACTION NO. 9:21-CV-00267, 2023 WL 1781802, at *4 (E.D. Tex. Feb. 6, 2023).

****Editor's Note*: This case is not currently available online.